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FILED

SEP 25 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
FORREST WILLIAM McELFRESH,)
)
Defendant.)
)
)
)
)

No. CR 08-00454 JW (HRL)

**STIPULATION AND [PROPOSED]
ORDER SETTING STATUS
CONFERENCE FOR SEPTEMBER 29,
2008 AND EXCLUDING TIME FROM
AUGUST 25, 2008 THROUGH
SEPTEMBER 29, 2008 FROM
CALCULATIONS UNDER THE
SPEEDY TRIAL ACT (18 U.S.C. §3161)**

The parties hereby request that the Court enter this order excluding time from August 25, 2008 through September 29, 2008. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from August 25, 2008 through September 29, 2008 based upon the need for the defense counsel to investigate further the facts of the

STIP. & [PROPOSED] ORDER
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present case and determine what, if any, motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to review and analyze this discovery. Since a further status conference will not be meaningful until after defendant and defense counsel have had an opportunity to complete a substantial portion of their investigation, the parties agree that the next status conference in this matter should be scheduled for September 29, 2008.

2. The attorney for defendant joins in the request to exclude time under the Speedy Trial Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for effective preparation of the defense; believes the exclusion is in the defendant's best interests; and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for the period from August 25, 2008 through September 29, 2008.


Given these circumstances, the parties believe, and request that the Court find, that the ends of justice are served by excluding from calculations the period from August 25, 2008 through September 29, 2008 outweigh the best interests of the public and the defendant in a speedy trial under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

IT IS SO STIPULATED.

DATED:


 MANUEL ARAUJO
 Assistant Federal Public Defender

DATED: 8/25/08


 HANLEY CHEW
 Assistant United States Attorney

[PROPOSED] ORDER

Having considered the stipulation of the parties, the Court finds that: (1) the defendant

STIP. & [PROPOSED] ORDER

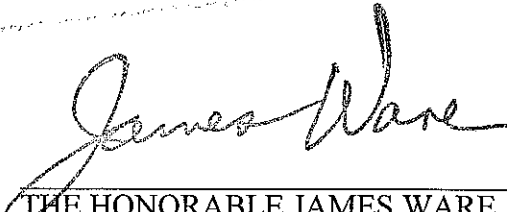
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1 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18
2 U.S.C. § 3161, from August 25, 2008 through September 29, 2008, based upon the need for the
3 defense counsel to investigate further the facts of the present case, review the discovery that the
4 government has already provided and evaluate further possible defenses and motions available to
5 the defendant; (2) the exclusion of time is necessary for effective preparation of the defense and
6 is in the defendant's best interests; and (3) the ends of justice are served by excluding from
7 calculations the period from August 25, 2008 through September 29, 2008.

8 Accordingly, the Court further orders that: (1) the next status conference in this matter
9 should be scheduled for September 29, 2008 at 1:30 p.m.; and (2) the time from August 25,
10 2008 through September 29, 2008 is excluded from time calculations under the Speedy Trial Act,
11 18 U.S.C. § 3161.

12
13 IT IS SO ORDERED.

14
15 DATED: Sept 25, 2008



THE HONORABLE JAMES WARE
United States District Court Judge